

ORDER NO. 2109

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Mark Acton, Vice Chairman; and
Robert G. Taub

Competitive Product Prices
Priority Mail Contract 33 (MC2011-13)
Negotiated Service Agreement

Docket No. CP2011-49

ORDER APPROVING AMENDMENT TO PRIORITY MAIL CONTRACT 33
NEGOTIATED SERVICE AGREEMENT

(Issued July 1, 2014)

I. INTRODUCTION

The Postal Service seeks to amend the Priority Mail Contract 33 negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

In Order No. 641, the Commission approved the Priority Mail Contract 33 negotiated service agreement (Existing Agreement).² On June 19, 2014, the Postal

¹ Notice of United States Postal Service of Amendment to Priority Mail Contract 33, June 19, 2014 (Notice). The Amendment is an attachment to the Notice (Amendment).

² See Docket Nos. MC2011-13 and CP2011-49, Order Approving Priority Mail Contract 33 Negotiated Service Agreement, January 6, 2011 (Order No. 641). The contract was subsequently amended twice. See Order No. 1744, Order Approving Amendment to Priority Mail Contract 33 Negotiated Service Amendment, June 11, 2013; Order No. 1942, Order Approving Amendment to Priority Mail Contract 33 Negotiated Service Amendment, January 2, 2014.

Service filed notice that it has agreed to the Amendment to the Existing Agreement. On June 23, 2014, the Commission issued an order reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service asserts that the Amendment will not impair the ability of the contract to comply with 39 U.S.C. § 3633. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁴ Upon review of the contract, the existing agreement, and the financial model filed under seal, the Public Representative concludes that the Existing Agreement, as amended, should continue to generate sufficient revenues to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.* at 2. However, she states that it would have been helpful for the Postal Service to provide an updated financial certification instead of relying on a certification that is approximately four years old. *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as

³ Order No. 2098, Notice and Order Concerning Amendment to Priority Mail Contract 33 Negotiated Service Agreement, June 23, 2014.

⁴ Public Representative Comments in Response to United States Postal Service Request to Add Priority Mail Contract 33 to the Competitive Products List, June 27, 2014 (PR Comments).

the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment modifies the method by which the customer makes payments and changes contract prices. Attachment A indicates that the parties agree to amend contract terms I.C. and I.D of the Existing Agreement and that all other terms remain unchanged.

The Amendment does not materially affect the underlying financial analysis of the Existing Agreement.⁵ Thus, the Commission finds that the Existing Agreement, as amended, comports with the provisions applicable to rates for competitive products in 39 U.S.C. § 3633(a) and 39 C.F.R. § 3015.7.

Other considerations. The Postal Service states that the Amendment shall become effective on the day after the date that the Commission completes its review. The Existing Agreement, as amended, is set to expire five years after the initial effective date unless, among other things, either party terminates the contract with 30 days' written notice to the other party or it is renewed by mutual agreement.⁶

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

Within 30 days of the termination of the Existing Agreement, as amended, the Postal Service shall file the annual (contract year) costs, volumes, and revenues, disaggregated by weight and zone associated with the amended agreement.

⁵ In this particular case, the Commission has determined that the amendment does not constitute a rate change, and therefore it does not need to reassess the initial financial information provided by the Postal Service.

⁶ Request of the United States Postal Service to Add Priority Mail Contract 33 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, December 17, 2010, Attachment B at 5. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Contract 33 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.
3. Within 30 days after the Existing Agreement, as amended, terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by weight and zone associated with the contract.

By the Commission.

Shoshana M. Grove
Secretary